

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
TO APPROPRIATE WATER NO.)
65-22650 IN THE NAME OF)
FREDERICK &/OR GLORIA RINGEL)

FINAL ORDER

Application to appropriate water no. 65-22650 became a contested case upon filing of protests against the application by Kyle F. Ellis ("Ellis"), Ronald R. Zehr ("Zehr"), James E. and Carolyn D. Kling ("Klings"), Arley J. Weaver ("Weaver"), Larry Beskoon ("Beskoon"), and Michael Levins ("Levins"). The Director of the Idaho Department of Water Resources (hereafter referred to as "Director" or "Department") appointed Peter Anderson as the hearing officer for the contested case. Peter Anderson will be referred to hereafter as "the hearing officer."

The hearing officer conducted a prehearing conference on October 14, 2004. Protestants Levins, Beskoon, and Zehr did not attend the prehearing conference. On October 15, 2004, the hearing officer issued Notices of Proposed Default Order to Levins, Beskoon, and Zehr. On November 5, 2004, the hearing officer issued a *Recommended Default Order Denying Protest of Larry Beskoon* and *Recommended Default Order Denying Protest of Michael Levins*. On November 22, 2004, a *Stipulation to Withdrawal of Protest* between Michael Levins and Ringels was filed with the Department. On December 2, 2004, the hearing officer issued a *Recommended Default Order Denying Protest of Ronald Zehr*.

Weaver subsequently withdrew his protest. Ellis, Klings, and Ringels agreed to submit the evidence in writing. At or about the time set for submittal of evidence, Klings withdrew their protest. The written evidence was submitted to the hearing officer, and on February 17, 2005, the hearing officer issued a *Recommended Decision and Order* approving application to appropriate water no. 65-22650. The parties did not file petitions, motions, or exceptions related to the order. The order was not appealed.

The *Recommended Decision and Order* of February 17, 2005, directed that, at the time the final order is issued, standard conditions normally placed on a water right permit, particularly conditions related to measurement and well construction, be placed on permit no. 65-22650.

ORDER

Based on a review of the *Recommended Decision and Order* of February 17, 2005, and the evidence supporting the recommended decision and order,

IT IS HEREBY ORDERED that the Findings of Fact and Conclusions of Law of the February 17, 2005 *Recommended Decision and Order* are adopted and incorporated into this order by reference.

IT IS FURTHER ORDERED that the protests of Larry Beskoon and Ronald Zehr are **Dismissed**.

IT IS FURTHER ORDERED that permit to appropriate no. 65-22650 is **Approved** subject to the following conditions:

1. Proof of application of water to beneficial use shall be submitted on or before September 1, 2007.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. This right is limited to the irrigation of 4.5 acres within the place of use described above in a single irrigation season.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
7. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
8. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

IT IS FURTHER ORDERED that pursuant to the Department's Rule of Procedure 740, this is a final order and subject to review by reconsideration or appeal.

Dated this 23rd day of September, 2005.



KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of September, 2005, a true and correct copy of the above and foregoing documents described below were served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

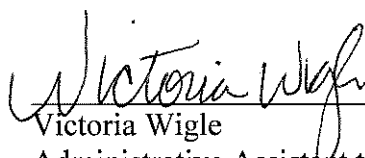
Document(s) Served: Final Order

Statement of Available Procedures and Applicable Time Limits when a hearing was held.

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Victoria Wigle
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